

REMARKS

These Remarks are responsive to the Office Action mailed April 20, 2006 ("Office Action"). Applicant respectfully requests reconsideration of the rejections therein for at least the following reasons.

I. STATUS OF THE CLAIMS

Claims 1-9, 15-34, and 37-38 and pending, with claims 1 and 37 being the independent claims.

II. STATUS OF THE AMENDMENTS

Applicant respectfully submits amendments to the specification (shown in the "Amendments to the Specification" section, above at page 3), the figures (shown in the "Amendments to the Figures" section, above at page 6), and the claims (shown in the "Amendments to the Claims" section, above at page 7). Applicant respectfully submits that the replacement figure 3 is submitted to clarify the position of the adjustable sensors, and that no new matter was added. Sufficient basis for this amendment may be found in the specification and original drawings. Applicant respectfully submits that the amendments to the specification and claims do not incorporate any new matter into the application, and that sufficient basis for all of the amendments exists within the original specification and claims.

III. THE OBJECTION TO THE DRAWINGS

The Office Action notes that Applicant "fails to describe each figure with respect to a specified view" Office Action, page 2. Applicant respectfully submits amendments to the specification, as shown in greater detail above. Among the amendments, Applicant has amended the figure description section of the application to indicate the views of the drawings. Further, Applicant submits an amended figure 3, as shown in greater detail above.

The Office Action objects to the drawings under 37 C.F.R. § 1.83(a), noting that the “drawings must show every feature of the invention specified in the claims.” Office Action, page 2. The Office Action specifically indicates four objections concerning the bar (15) at a fixed height, the feed hopper, sensors being height adjustable, and an acute angle.

With reference to the bar (15) at a fixed height, Applicant respectfully submits that the bar is shown in Figure 1. The bar is also described, for example, on first paragraph of page 8 of the specification. The position of the bar is further explained in the first paragraph of page 11 of the specification, which indicates that the bar “does not touch the belt surface, but is arranged above it.” Further, Applicant respectfully calls attention to the amended figure 3, shown above, that clarifies the position of the bar.

The feed hopper is shown, for example, in Figure 2 in section 5 of the invention, and described, for example, in the first paragraph of page 8 of the specification.

The sensors are shown, for example, in figure 3, as amended above, and discussed, for example, in the third paragraph of page 10 of the specification.

The acute angle is shown, for example, in figures 2 and 4 and described, for example, in the second paragraph of page 13 of the specification.

Accordingly, Applicant respectfully requests that the objection be withdrawn.

IV. THE PENDING CLAIMS ARE NOT INDEFINITE UNDER 35 U.S.C. § 112

The Office Action rejects Claims 1-9, 15-34, 37, and 38 under 35 U.S.C. § 112, ¶ 2 as “incomplete for omitting essential elements.” Office Action page 4. The Office Action alleges that the claims require “an elongated magnetic device.” Applicant respectfully submits that the amendment to claims 1 and 37, replacing the word “upward” for the

words “essentially vertical” renders this rejection moot. As claims 2-9 and 15-34 depend ultimately from claim 1, the rejection for these claims is also rendered moot. Claim 38 depends from claim 37, and so this rejection is also rendered moot with respect to claim 38. Accordingly, Applicant respectfully requests that this rejection under 35 U.S.C. § 112, ¶ 2 be withdrawn.

The Office Action further alleges that Claims 1-9, 15-34, 37, and 38 recite process steps within apparatus claims. Applicant respectfully submits that the claims do not in fact recite process steps. Instead the claims describe functions of the recited apparatus. “[F]eatures of an apparatus may be recited either structurally or functionally. . . .” M.P.E.P. § 2114. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

The Office Action further alleges that the use of the term “alternatively” in claim 37 is “vague and indefinite.” Office Action, page 4. With respect to this rejection, Applicant respectfully submits that the objectionable language has been removed from claim 37 by virtue of the above claim amendments, rendering the rejection moot. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

The Office Action further alleges several antecedent basis errors, noting specifically errors in claims 1, 6, 7, 16, 17, 23, 24, and 25. With respect to these errors, Applicant respectfully submits that the noted errors were eliminated in the above claim amendments, and respectfully requests that this rejection be withdrawn.

The Office Action further alleges that the term “above” in claims 1 and 37 is indefinite. Office Action page 5. Applicant respectfully draws attention to, for example, the first paragraph of page 11, where the specification states “separating device 15 designated as the bar which does not touch the belt surface, but is arranged above it.” As shown in the specification, the bar may be positioned so that it does not touch the belt’s surface;

because it does not touch the belt's surface, it is shown to be "above" the belt. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

The Office Action further alleges that the term "acute angle" in claim 16 is indefinite. Office Action page 5. Applicant respectfully draws attention to, for example, the second paragraph of page 13 of the specification, and also to, for example, figures 2 and 4, where the angle position is shown in an exemplary embodiment of the invention. In an exemplary embodiment, the acute angle may be defined by the essentially triangular guide member. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

Finally, the Office Action alleges that the "claims are replete with terminology that deems the claims to be vague and indefinite," specifically noting the terms "same-lying" in claims 1 and 37 and "this side and that side" in claims 7 and 8. The claims as filed were a literal translation of a foreign counterpart application. The claims as amended no longer contain the objectionable language noted in the rejection. Thus, the rejection is rendered moot and Applicant respectfully requests that it be withdrawn.

**V. THE PENDING CLAIMS ARE NOT ANTICIPATED BY UNITED STATES PATENT
NUMBER 6,189,702 TO BONNET.**

Claims 1-3 and 37 were rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. Pat. No. 6,189,702 to Bonnet ("Bonnet"). To the extent this rejection applies to the pending claims, Applicant respectfully traverses the rejection and requests reconsideration thereof for reasons set forth below.

"A claim is anticipated ***only if each and every element as set forth in the claim*** is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir.

1987)." Manual of Patent Examining Procedure 8th ed., rev. 5 § 2131 (2006) (emphasis added).

Bonnet does not anticipate claims 1-3 or 37 because Bonnet fails to teach or suggest each and every element set forth in those claims. Bonnet is directed to a mechanism to sort packages from a single stream of packages into multiple, sorted streams of packages. It seeks "to provide a diverter for objects moving along a conveyer." Bonnet, Col. 2, ll. 47-48. Two conveyers (12 and 15) are shown in Bonnet, and the sorting device 10 is designed to laterally push packages from one conveyer to another, based on programmed criteria. Bonnet, Col. 4, ll. 45-63. Both conveyers move packages, but there is no combination of more than one conveyers into a single conveyer.

In contrast, claim 1 recites, in pertinent part, a "bar terminating after the sensor and discharge device, and adapted to separately supply *more than one row of metallic closures* next to one another towards the sensor and discharge device. . . ." Claim 37 recites, in pertinent part, "supplying *more than one row of closures* next to one another to the sensor and discharge device. . . ." The more than one row of metallic closures as recited in Claim 1 and the more than one row of closures as recited in claim 37 similarly combine upstream of the sensor to form one row which is then discharged. Bonnet does not connect more than one incoming rows of closures. Hence, because Bonnet teaches no combination of more than one conveyers into a single conveyer, Bonnet does not teach either "more than one row of metallic closures next to one another. . ." or "more than one row of closures next to one another. . . ." Accordingly, Applicants respectfully request that the rejection for claims 1 and 37 be withdrawn.

In view of the foregoing arguments, Applicant respectfully submits that claims 1 and 37 are not anticipated by Bonnet, as every element set forth in the claims cannot be found in Bonnet. Accordingly, Applicant respectfully requests that these claims be allowed. Claims 2 and 3 depend from allowable claim 1 and are therefore allowable for at least

that reason. Thus, Applicant respectfully requests that the rejection of claims 1-3 and 37 under 35 U.S.C. § 102(b) be withdrawn.

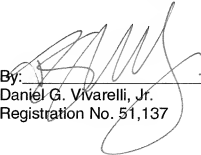
VI. CLOSING COMMENTS

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, a Notice of Allowance is earnestly solicited. As always, if the Examiner has any questions or concerns, the Examiner is encouraged to contact the undersigned attorney at any time. As previously stated, it is believed that the correct fees are submitted with this Response. However, if there is a shortage or deficiency in fees, the Commissioner is hereby authorized to charge or credit any difference to the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,

HUNTON & WILLIAMS LLP

Dated: October 20, 2006
Hunton & Williams LLP
Intellectual Property Department
1900 K Street, N.W.
Suite 1200
Washington, DC 20006-1109
(202) 955-1500 (telephone)
(202) 778-2201 (facsimile)

By: 
Daniel G. Vivarelli, Jr.
Registration No. 51,137

